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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/891,005	06/25/2001	Michael Shawn Giffin	SNY-P4260	9424
24337	7590	05/20/2005	EXAMINER	
MILLER PATENT SERVICES 2500 DOCKERY LANE RALEIGH, NC 27606			NGUYEN, QUANG N	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/891,005

**Applicant(s)**

GIFFIN ET AL.

**Examiner**

Quang N. Nguyen

**Art Unit**

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Detailed Action***

1. This Office Action is responsive to the Response to Office Action filed on 03/02/2005. Claims 1-27 are presented for examination.

***Claim Objections***

2. Claim 3 has been missing. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1-2, 9-10 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Rhoads (US 6,311,214).**

5. As to claim 1, Rhoads teaches a method, comprising:  
  
storing a music file for a user (*at a predetermined location, i.e., a personal music library maintained by the user*) (Rhoads, C46: L35-45);  
  
receiving a request from the user for playback of the music file; and  
  
transmitting the music file to the user for playback using wireless transmission, as a streaming music file (*the personal music library can be equipped with wireless capabilities adapted to provide music to the user's playback devices employed by the user such as MP3 player by short-range wireless broadcast*) (Rhoads, C46: L35-53).
6. As to claim 2, Rhoads teaches the method of claim 1, further comprising:  
  
receiving from the user a request to store the music file; and wherein the storing is carried out as a response to the request to store the music file (*receiving a user request to store the music file at the predetermined location*) (Rhoads, C46: L24-34).
7. Claims 9-10 are corresponding storage medium claims of method claims 1-2; therefore, they are rejected under the same rationale.
8. Claims 15-16 are corresponding data center claims of method claims 1-2; therefore, they are rejected under the same rationale.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. **Claims 4-8, 11-14 and 17-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads, in view of Kurihara et al. (US 2002/0023101 A1), hereinafter referred as Kurihara.**

11. As to claims 4-5, Rhoads teaches the method of claim 1, but does not explicitly teach charging user a fee for storage of the music file and for transmitting the music file to the user.

In a related art, Kurihara teaches a content managing system and method, wherein each user pays the fee for the user area 18 of the customer file storage 13 so each user can store the file of a new content to the user area 18, delete the file of a content from the user area 18, move the file of a content stored in the user area 18, and download the file of a content stored in the user area 18 to the user terminal unit 2 (Kurihara, paragraph [0044]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the teachings of Rhoads and Kurihara to have the user paying the fee for storage and transmission of the music since such methods were conventionally employed in the art for the system to provide users with storage area in the range of the contracted capacity to add (upload), delete, move and access (download) content stored in the assigned user area.

12. As to claim 6, Rhoads-Kurihara teaches the method of claim 1, further comprising uploading the music file from the user prior to the storing (*the user can store the file of his or her content to the user area 18*) (Kurihara, paragraph [0044]).

13. As to claims 7-8, Rhoads-Kurihara teaches the method of claim 1, further comprising obtaining the music file from a commercial music source prior to the storing and paying a royalty for use of the music file (*each user can purchase the file of content stored in the content library 11 and store the file of the purchased content to the user area 18 of the customer file storage 13*) (Kurihara, paragraphs [0046] and [0057]).

14. Claims 11-14 are corresponding storage medium claims of method claims 4-7; therefore, they are rejected under the same rationale.

15. Claims 17-20 are corresponding data center claims of method claims 4-7; therefore, they are rejected under the same rationale.

16. As to claim 21, Rhoads-Kurihara teaches a music player, comprising:

a wireless receiver for receiving transmission of streaming data (*the personal music library can provide music to the user's playback device such as a personal MP3 player by short-range wireless broadcast*) (Rhoads, C46: L49-51);

a streaming audio decoder, coupled to the wireless receiver for decoding the streaming data into analog audio signals; and an audio circuit that converts the analog audio signals into audible sounds (*inherently, the personal MP3 player of Rhoads or the user terminal unit 2 of Kurihara must have a streaming audio decoder for decoding the streaming data into analog audio signal in order to play the music to the user*) (Kurihara, Fig. 13 and corresponding text).

17. As to claim 22, Rhoads-Kurihara teaches the music player of claim 21, further comprising:

a user interface that receives user commands (*user interface as in Fig. 13*); and

a wireless transmitter for transmitting the user commands to a data center to direct the data center to transmit the streaming data (*the user terminal 2 can be connected to the content managing company 1 through a network service of a cellular phone*) (Kurihara, Fig. 13 and paragraph [0039]).

18. As to claim 23, Rhoads-Kurihara teaches the music player of claim 21, further comprising a cache memory coupled to the streaming audio decoder for caching the

streaming data (*"Official Notice" is taken here that it is obvious that the personal MP3 player of Rhoads must have a cache memory for caching/storing the streaming data*).

19. As to claim 24, Rhoads-Kurihara teaches the music player of claim 21, embodied within one of a wireless communication device, a cellular phone and a PDA (*the personal music library can provide music to the user's playback devices such as a personal MP3 player by short-range wireless broadcast*) (Rhoads, C46: L49-51).

20. Claims 25-27 are corresponding method claims of music player claims 21-24; therefore, they are rejected under the same rationale.

21. Claim 28 is a corresponding storage medium claim of method claim 25; therefore, it is rejected under the same rationale.

22. Further references of interest are cited on Form PTO-892, which is an attachment to this office action.




23. A shortened statutory period for reply to this action is set to expire THREE (3) months from the mailing date of this communication. See 37 CFR 1.134.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang N. Nguyen whose telephone number is (571) 272-3886.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's SPE, Rupal Dharia, can be reached at (571) 272-3880. The fax phone number for the organization is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER